

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SCOTT PELLEGRINO, on behalf of himself and all others similarly
situated; and CHRISTINE VANOSTRAND, on behalf of herself and
all others similarly situated,

Plaintiffs,

-against-

NEW YORK STATE UNITED TEACHERS; UNITED TEACHERS
OF NORTHPORT, as representative of the class of all chapters and
affiliates of New York State United Teachers; NORTHPORT-EAST
NORTHPORT UNION FREE SCHOOL DISTRICT, as
representative of the class of all school districts in the state of New
York; ANDREW CUOMO, in his official capacity as Governor of
New York; BARBARA UNDERWOOD, in her official capacity as
Attorney General of New York; JOHN WIRENIUS, in his official
capacity as chair of the New York Public Employment Relations
Board; and ROBERT HITE, in his official capacity as member of the
New York Public Employment Relations Board,

Defendants.
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STATE OF NEW YORK)
)ss.:
COUNTY OF SUFFOLK)

ROBERT HOWARD, being duly sworn, deposes and says:

1. I am the Assistant Superintendent for Business for the Defendant, NORTHPORT-EAST NORTHPORT UNION FREE SCHOOL DISTRICT (hereinafter referred to as the "School District"), and have held that position since July of 2018.

2. In my capacity as Assistant Superintendent for Business, I am, in effect, the Chief Financial Officer of the School District.

3. As the Assistant Superintendent for Business for the School District, I am responsible for the School District's fiscal concerns, including keeping records and tracking the

ECF Case

AFFIDAVIT IN
SUPPORT OF MOTION
TO DISMISS

Docket No. 2:18-CV-
03439 (JMA/GRB)

School District's revenue and expenditures, and ensuring that all of the School District's revenue is sufficient to allow it to meet School District expenses. I am also charged with the responsibility of calculating and administering payroll and making the appropriate deductions for all School District employees.

4. I submit this Affidavit in support of the School District's motion to dismiss the Plaintiffs', PELLEGRINO and VANOSTRAND, Complaint.

5. Unless otherwise stated, the facts set forth below are based upon my personal knowledge and the books and records maintained by the School District.

6. I am aware that Plaintiffs have filed a lawsuit challenging the constitutionality of agency fee and specifically asserting claims against the School District to permanently enjoin the School District from deducting "agency fees" from the paychecks of non-union members and from entering into any collective bargaining agreement which allows a union to redirect any type of money from a non-union member.

7. Each year, pursuant to state law and in accordance with the teachers' collective bargaining agreement, my predecessor and I deduct the appropriate amount of union dues or agency fees based upon the dues deduction cards and the list of union and non-union members retained by the School District.

8. Once the amount of union dues or agency fees are deducted from each School District employee's paycheck, such monies are transmitted to the New York State United Teachers Union.

9. However, I no longer deduct agency fees from non-union members' paychecks because mandatory agency fees for public employees has been deemed unconstitutional by the United States Supreme Court Decision in Janus v. AFSCME, Council 31. The School District

has not deducted any agency fees from non-union member paychecks since the Supreme Court decision was rendered on June 27, 2018.

10. As a result of the *Janus* decision, the School District only deducts union dues upon receipt of affirmative consent from the School District employee.

11. Plaintiff, Scott Pellegrino, first became employed with the School District in July of 1995, and is currently employed as a Middle School teacher in the School District.

12. At the time the complaint was filed, Plaintiff Scott Pellegrino was a union-dues paying member of the United Teachers of Northport and the New York State United Teachers.

13. On or about August 27, 2018, Plaintiff Scott Pellegrino resigned his membership and withdrew from the teachers' Union.

14. The School District has not collected any union dues or agency fees from Plaintiff Pellegrino's paycheck since the date of his withdrawal from the Union.



ROBERT HOWARD

Sworn to me this 11th
day of January, 2019


NOTARY PUBLIC

ELAINE R. MEYBURG
Notary Public, State of New York
No. 01ME6019446
Qualified in Suffolk County
Commission Expires Feb. 8, 2019